

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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8/31/
ny

ROHAN R. PERSAUD
Petitioner

CIVIL ACTION No. 1: CV-01-1255

v.

(Rombo J.)

JOHN ASHCROFT et al.
Respondent,

FILED
HARRISBURG

AUG 30 2001

MARY E. D'ANDREA, CLERK
Per. SLS
DEPUTY CLERK

PETITIONER'S ADDENDUM TO HABEAS PETITION

COMES NOW Rohan R. Persaud, Pro. se, herein after
knowing as "Petitioner" and adds addendum to the foregoing
petition for writ of habeas corpus.

In Support thereof, Petitioner states as follows:

- 1) Petitioner avers that he is entitled to be free from government restraint on account of the length of time he have already served in INS custody under the post removal period of the administratively final order of removal before the BIA release him a stay pursuant to procedural due process under the Fifth Amendment to the United States Constitution

Petitioner contends, that his prolong detention is no longer authorized by statute, and the basic federal statute grant the federal court authority to determine whether post removal

Period detention is pursuant to statutory authority. In answering that question see 28 U.S.C. § 2241(c)(3). The habeas court must ask whether the detention in question exceeds a period reasonably necessary to have secured removal. It should measure reasonableness primarily in term of the statute's basic purpose, namely assuring the alien presence at the moment of removal, and in the case at bar, petitioner has been detained on a final order well over the statutory post removal period or reasonable foreseeableness thereafter, and the choice at issue here is between imprisonment and supervision under release condition that may not be violated or bond, which is also a further specification of the Fifth Amendment due process clause that forbids the government to deprive any person of liberty without due process of law. Freedom from imprisonment from government custody detention or forms of physical restraint lies at the heart of the liberty clause the Fifth Amend. protect. See Foucha v. Louisiana, 504 U.S. 71, 80 (1992) - and the court as said that government detention violates that clause unless the detention is ordered in a criminal proceeding with adequate procedural protection see United States v. Salerno, 481 U.S. 739 746 1987

Petitioner further contends that he is still presently under a administrative final order regardless of the stay order put in place by the BIA on account that his motion for reconsideration pending under consideration does not automatically place him back in administrative proceeding unless his motion

For reconsideration is granted and the INS matter reopen. However, even upon Petitioner case reopen he would still be eligible for release under supervise condition or bond, notwithstanding the Attorney General memorandum dated July 27, 2001. Specifically instructed the INS. To expeditiously conclude its ongoing file review for all aliens who have remained in post-order detention for 90 days or more with priority given to those cases in which the aliens have been detained longest. Such as Petitioner herein.

Wherefore for all the reasons above Petitioner Petition should be granted Petitioner Prays.

DATE. AUGUST 27, 2001.

Respectfully Submitted

Rohan Persaud

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CERTIFICATE OF SERVICE.

PETITIONER'S ADDENDUM TO HABEAS PETITION

I ROHAN R. PERSAUD, HEREBY CERTIFY THAT I CAUSE TO SERVE THE COURT A TRUE AND CORRECT COPY OF THE RESPONSE TO THE RESPONDENT'S OPPOSITION TO THE WRIT PETITION BY CLASS MAIL SERVICE AND DEPOSITING THE SAME IN THE U.S. MAIL TO RESPONDENT ADDRESSED AS SET FORTH BELOW.

LORNA N. GRAHAM, ASS. DIST. ATT
P.O. BOX 309, FEDERAL BUILDING
WASHINGTON AVE AND LINDEN ST
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RESPECTFULLY SUBMITTED

DATE: 27 AUGUST 2001.

Rohan R. Persaud

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